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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

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Technology Center 2600

Application Number: 10/696,395
Filing Date: October 29, 2003
Appellant(s): PEARSON ET AL.

Mr. Jeffrey G. Toler
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 25 October 2006 appealing from the Office action mailed 11 July 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct. No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The grounds of rejection for claim 42 in the Final Rejection contained a typographical error and clearly did not rely upon Reyes in light of itself in the Final

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Rejection. The statement of the grounds has been corrected accordingly. The grounds of rejection to be reviewed on Appeal for Item G should read:

- Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sheppard in view of Ellis in further view of Reyes and in still further view of U.S. Patent No. 6,785,901 (“Horiwitz”).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,978,474	SHEPPARD ET AL	12-2005
6,762,773	KOLDE ET AL	7-2004
6,493,875	EAMES ET AL	12-2002
6,785,901	HORIWITZ ET AL	8-2004
2005/0251827	ELLIS ET AL	11-2005
2002/0078442	REYES ET AL	6-2002
2003/0028872	MILOVANOVIC ET AL	2-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1, 2, 4, 6-10, 20, 22, 24, 26-28, 34, 36, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheppard et al. (US Pat No. 6,978,474) in view of Ellis et al. (US Pub No. 2005/0251827 A1).

In consideration of claim 1, Figures 4, 5, and 8 of Sheppard et al. illustrate a “video distribution system”. As illustrated in Figure 5, the system comprises a “receiver” [410] or network interface module within the residential gateway [200] that is “operable to receive a multiplexed signal comprising a plurality of encoded video information streams” (Col 8, Lines 24-34). The residential gateway comprises a “first decoder” [450] and separately illustrated “second decoder” [450] “communicatively coupled to the receiver” via the MPEG bus [424] and “operable to decode a first” and “second video information stream of the multiplexed signal” (Col 10, Lines 34-67) respectively, a “combiner” [418] “operable to output a composite signal for communication via a premise network . . . comprising a decoded first video information stream modulated to a first radio frequency band . . . and a second video information stream modulated to a second radio frequency band” (Col 6, Line 60 – Col 7, Line 3; Col 10, Lines 10-34; Col 11, Lines 13-31). A “remote control mechanism” [500] is “operable to communicate a request signal to the first decoder requesting that the first decoder decode a different video information stream of the multiplexed channel” (Col 9, Line 63 – Col 10, Line 34). The reference discloses that the particular televisions [199] are each associated with or assigned radio frequencies and corresponding remote controllers. The reference, however, is unclear with respect to the particular existence of multiple users within the

household such that a given television [199] and therefore frequency band is associated with that particular user.

In an analogous art pertaining to the field of video distribution systems, the Ellis et al. reference discloses a “video distribution system” such as that illustrated in Figure 6 wherein a plurality of users within a household are associated with a plurality of televisions (Para. [0064]) and the users may configure settings associated with an interactive programming guide. The reference discloses that in conjunction with configuring the system a user associates particular televisions with particular users wherein a particular location is designated as the master location so as to modify settings (Figure 11; Para. [0089] – [0092]). For example, as illustrated, a particular television is associated with an adult or parent and another television is associated with a child and the parents have designated their own TV as the master controller. The system further comprises an “access engine to authenticate that a user of [a] remote control mechanism” [54] is associated with the master controller in order to change parental control settings (Figure 17; Para. [0095] – [0096]). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Sheppard et al. in light of the teachings of Ellis et al. such that the aforementioned “combiner [is] operable to output a composite signal . . . modulated to a first radio frequency band associated with a first user” (ex. parent) and a “second radio frequency band associated with a second user” (ex. child) and to further incorporate an “access engine to authenticate that a user of the remote control mechanism is associated with the first radio frequency band” or the master control television in the parent’s room for the

purpose of advantageously providing a means by which a family with multiple televisions can manage the operation of the television devices (Ellis et al.: Para. [0007] – [0008]).

Claim 2 is rejected wherein the Sheppard et al. reference discloses a “diplexer” [806] “operable to distinguish between upstream and downstream communication flow [and] . . . operable to output the multiplexed signal to the receiver” [200] (Figure 8) and a “modem” [350 or 410] “communicatively coupled to the diplexer and operable to output data traffic to the diplexer” (Col 7, Line 11-26; Col 8, Lines 24-34).

Claim 4 is rejected, in light of the teachings of Sheppard et al., which discloses a “radio frequency communication module” [442 or 910 or 920] that is “operable to support at least a portion of a communication path interconnecting the remote control and the first decoder” (Col 11, Lines 52 – Col 12, Line 28).

Claim 6 is rejected wherein the “premise network comprises installed coaxial cable” (Sheppard et al.: Col 6, Lines 63-67).

Claim 7 is rejected wherein the system further comprises “a modem device” [350 or 410] that is “selected from the group consisting of . . . an xDSL modem” (Sheppard et al.: Col 7, Lines 11-26; Col 8, Lines 24-34).

Claim 8 is rejected wherein the system further comprises a “messaging engine” [48] (as implemented via the appropriate circuitry therewith) that is “operable to initiate communication of message information via the premise network, wherein the message information represents a message sent using a service selected from the group consisting of electronic mail” (Ellis et al.: Para. [0064] and [0123])

Claim 9 is rejected wherein the system further comprises a “metrics engine” [48] (as implemented via the appropriate circuitry therewith) “operable to track a metric associated with the first video information stream wherein the metric is selected from the group of a video stream content rating . . . [or] an assigned programming channel for the first video information stream” (Ellis et al.: Figure 19; Para. [0068] and [0102]).

Claim 10 is rejected wherein the system further comprises a “graphical user interface (GUI) engine” [48] (as implemented via the appropriate circuitry therewith) that is “operable to initiate presentation of a GUI” or electronic program guide “on a television display communicatively coupled to the premise network” (Ellis et al.: Para. [0069] – [0070] and [0088]).

In consideration of claim 20, Figures 4, 5, and 8 of Sheppard et al. illustrate a “video distribution system”. As illustrated in Figure 5, the system comprises “plurality of remotely controllable channel output modules” [450], “each configured to output a signal modulated to an assigned frequency block . . . representing a decoded version of a selected MPEG video stream and a “premise network interface” [418] “operable to output a composite signal to a premise network” [210] wherein the “composite signal comprises a modulated signal from at least one of the plurality of remote controllable channel output modules” (Col 6, Line 60 – Col 7, Line 3; Col 10, Lines 10-34 and 49-67; Col 11, Lines 13-31). The system further comprises a “remote control mechanism” [500] wherein the particular televisions [199] are each associated with or assigned radio frequencies and corresponding remote controllers. The reference, however, is unclear with respect to the

particular existence of multiple users within the household such that a given television [199] and therefore frequency block is associated with that particular user.

In an analogous art pertaining to the field of video distribution systems, the Ellis et al. reference discloses a “video distribution system” such as that illustrated in Figure 6 wherein a plurality of users within a household are associated with a plurality of televisions (Para. [0064]) and the users may configure settings associated with televisions and an interactive programming guide. The reference discloses that in conjunction with configuring the system a user associates particular televisions with particular users wherein a particular location is designated as the master location from which to modify settings (Figure 11; Para. [0089] – [0092]). For example, as illustrated, a particular television is associated with an adult or parent and another television is associated with a child and the parents have designated their own TV as the master controller. The system further comprises an “access engine to authenticate that a user of [a] remote control mechanism” [54] is associated with the master controller in order allow for changes in parental control settings (Figure 17; Para. [0095] – [0096]). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Sheppard et al. in light of the teachings of Ellis et al. such that the aforementioned “plurality of remote controllable channel output modules [are] each configured to output a signal modulated to an assigned frequency black associated with a particular user” (ex. parent or child) and to further incorporate an “access engine to authenticate that a user of the remote control mechanism is associated with the first radio frequency band” or the master control television in the parent’s room for the purpose of

advantageously providing a means by which a family with multiple televisions can manage the operation of the television devices (Ellis et al.: Para. [0007] – [0008]).

Claim 22 is rejected wherein the “premise network comprises coaxial cable” (Sheppard et al.: Col 6, Lines 63-67).

In consideration of claim 24, Sheppard et al. discloses that the “assigned frequency blocks” correspond to television channels 3, 4, 8, and 11 (Col 10, Lines 23-34; Col 14, Lines 18-24) which correspond to “portions of the Very High Frequency spectrum assigned to television channels” in accordance with FCC television frequency assignments.

Claim 26 is rejected wherein the system further comprises a “first remote controllable channel output module” [450] “configured to output information on to one assigned frequency block” (Sheppard et al.: Col 10, Lines 23-34 and 51-58).

Claim 27 is rejected wherein the system further comprises a “table mapping each of a plurality viewers to at least one assigned frequency block” (Ellis et al.: Figure 19). For example, Figure 19 illustrates that a viewer is watching an assigned frequency block corresponding to the television in the children’s room or is watching programming associated with an operator assigned frequency block (ex. Channel 6).

Claim 28 is rejected in light of the combined teachings wherein the system further comprises a “graphical user interface (GUI) engine operable to initiate presentation of a GUI on a television display communicatively coupled to the premise network . . . indicating video programs represented by the selected MPEG video stream output by

each of the plurality of remote controllable channel output modules” (Ellis et al.: Figure 19; Para. [0101] – [0102]).

Claim 34 is rejected wherein the “access engine employs a password authentication scheme” (Ellis et al.: Para. [0096]).

Claim 36 is rejected wherein the “access engine employs a device based authentication scheme” such that the user utilizes a device such as remote controller [54] to enter the appropriate password (Ellis et al.: Para. [0095] – [0096]). The claim is not limiting with respect to the particular nature of the “device based authentication”.

In consideration of claim 40, as aforementioned the Sheppard et al. reference discloses a “method” wherein a local video distribution system comprises a plurality of televisions [199] and “receives a request for media content from a first user” so as to view a particular program on a particular television [199] (Col 10, Lines 10-34). The system subsequently “modulat[es]the media content on a carrier frequency” [450] “associated with the first user” requesting the programming and “output[es] the modulated stream to a premise network” [210] “on the carrier frequency associated with the first user such that the first user can access the media content by tuning a premise network connected television to the first carrier frequency (Sheppard et al.: Col 6, Line 60 – Col 7, Line 3; Col 9, Lines 48-62; Col 10, Lines 10-34; Col 11, Lines 13-31). The reference, however, is unclear with respect to the particular association of multiple users to multiple TVs or “linking a plurality of users with associated carrier frequencies”.

In an analogous art pertaining to the field of video distribution systems, as previously set forth, the Ellis et al. reference discloses a “method” wherein a plurality of users within

a household are associated with a plurality of televisions (Para. [0064]) such that the system may be configured so as to “link a plurality of users” with particular televisions and to further establish parental control features for each of those televisions (Ellis et al.: Figures 11, 13-18). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Sheppard et al. in light of the teachings of Ellis et al. so as to “link a plurality of users with associated carrier frequencies” (ex. parent + child) for the purpose of advantageously providing a means by which a family with multiple televisions can manage the operation of the television devices (Ellis et al.: Para. [0007] – [0008]).

2. Claims 3, 5, 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheppard et al. (US Pat No. 6,978,474 B1), in view of Ellis et al. (US Pub No. 2005/0251827 A1), and in further view of Kolde et al. (US Pat No. 6,762,733 B2).

In consideration of claim 3, the combined references are unclear such that the “remote control mechanism is further operable to communicate using a wireless local area network communication protocol”. In an analogous art pertaining to video distribution, the Kolde et al. discloses a “remote control mechanism” [106] which is “operable to communicate using a wireless local area network protocol” (Col 6, Lines 22-33).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined references so as to utilize the “remote control mechanism” of Kolde et al. for the purpose of advantageously providing a context-sensitive instructional user interface so as to familiarize the user with the

operation of the interactive television system and further support a number of interactive options (Kolde et al.: Col 1, Lines 53-67; Col 5, Lines 33-40).

Claim 5 is rejected wherein the Sheppard et al. reference discloses that the system further comprises a “network interface” [360] that is “operable to provide at least a portion of a communication path interconnecting the receiver” [200] and a “wide area communication network” [110 or 100 or 310] (Figure 4) and a “communication module” [442] for interconnecting with the remote control units. The reference, however, is unclear with respect to the “communication module” [442] necessarily being a “transceiver”. The Kolde et al. reference discloses the particular usage of a “communication module having a local area wireless transceiver” [202/204] so as to support its remote control mechanism (Col 5, Lines 11-25). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combine teachings so as to further include a “communication module having a local area wireless transceiver” for the purpose of advantageously providing a context-sensitive instructional user interface so as to familiarize the user with the operation of the interactive television system and further support a number of interactive options (Kolde et al.: Col 1, Lines 53-67; Col 5, Lines 33-40).

Claim 37 is rejected in light of the aforementioned combination wherein the “remote control mechanism is a wireless telephone” (Kolde et al.: Col 5, Lines 48-57).

Claim 38 is rejected in light of the aforementioned combination wherein the “remote control mechanism has Bluetooth functionality” (Kolde et al.: Col 6, Lines 22-33).

3. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sheppard et al. (US Pat No. 6,978,474), in view of Ellis et al. (US Pub No. 2005/0251827 A1), and in further view Applicant's Admission of fact (APA).

In consideration of claim 23, as aforementioned, Sheppard et al. explicitly provides that the "assigned frequency block" can correspond to any television channel and provides channels 3, 4, 8, and 11 as examples (Col 10, Lines 23-34; Col 14, Lines 18-24). Applicant's admission of fact (APA) provides evidence as to the particular usage of "assigned frequency blocks" comprising a "range of approximately 60 to 66 MHz", a "range of approximately 66 to 72 MHz", and a "range of approximately 76 to 82 MHz" as frequency ranges corresponding to television distribution channels. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined references such that the "first of the remote controllable channel output modules" [450] utilizes an "assigned frequency block . . . comprising a range of approximately 60 to 66 MHz", the "second of the remote controllable channel output modules" [450] utilizes an "assigned frequency block . . . comprising a range of approximately 66 to 72 MHz", and the "third of the remote controllable channel output modules" [450] utilizes an "assigned frequency block . . . comprising a range of approximately 76 to 82 MHz" for the purpose of locally distributing television programming utilizing FCC assigned channels or "frequency blocks" in a manner which reduces the costs associated with in-home distribution of television programming by virtue of distributing programming on channels televisions are already designed to directly receive.

4. Claims 29, 31-33, 39, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheppard et al. (US Pat No. 6,978,474) in view of Ellis et al. (US Pub No. 2005/0251827 A1), and in further view of Reyes et al. (US Pub No. 2002/0078442 A1).

Claim 29 is rejected wherein the combined references discloses a “method of facilitating video distribution”. As aforementioned, the Sheppard et al. discloses a distribution method which “links . . . users with associated carrier frequencies” associated with the particular television [199] being viewed. The method comprises “receiving a first command from a first user”, “modulating a decoded video stream identified by the first command on the first carrier frequency” [450] and “outputting the modulated stream to a premise network” [210] such that the “first user can access the modulated stream by tuning a premise network connected television” [199] to the “first carrier frequency” (Col 6, Line 60 – Col 7, Line 3; Col 9, Lines 48-62; Col 10, Lines 10-34; Col 11, Lines 13-31). The reference, however, is unclear with respect to the particular association of multiple users to multiple TVs as well as the particular usage of “authenticating” as claimed.

In an analogous art pertaining to the field of video distribution systems, the Ellis et al. reference discloses a “method of facilitating video distribution method” such as that illustrated in Figure 6 wherein a plurality of users within a household are associated with a plurality of televisions (Para. [0064]) and the users may configure settings associated with an interactive programming guide. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify

Sheppard et al. in light of the teachings of Ellis et al. so as to “link a plurality of users with associated carrier frequencies” (ex. parent + child) for the purpose of advantageously providing a means by which a family with multiple televisions can manage the operation of the television devices (Ellis et al.: Para. [0007] – [0008]).

The combined references subsequently disclose the existence of a particular television associated with a particular remote control, user, and assigned frequency such that the system provides a particularly assigned frequency to a television associated with a particular user. While the Ellis et al. reference suggests the particular usage of parental control settings, the combined references are silent with respect to the usage of an “access engine” as claimed. In an analogous art pertaining to video distribution systems, the Reyes et al. reference discloses “authenticating that the first user” is allowed to change channels on a particular remote controller (Para. [0037] – [0038] and [0042]).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined teachings such that the video distribution method further comprises “authenticating that the first user is associated with a first carrier frequency” for the purpose of providing a means to prevent accidental redirects of a viewing channel by children or other adults (Reyes et al.: Para. [0005]). For example, a particular user (ex. parent) in the multi-user household may choose to lock the operation of the particular remote controller associated with their particular television (ex. parent’s room) operating on its assigned or “first carrier frequency”. Accordingly, only by authenticating that the parent or user associated with the first radio

frequency band is actually operating the particular remote in their room can the television channel be changed or other system feature accessed.

Claim 31 is rejected in light of the combined teaching of the multi-user / multi-television household such that the system “receives a second command from a second user” (ex. houseguest) and “modulates a second decoded video stream identified by the second command on a second carrier frequency, wherein the second carrier frequency is associated with the second user; and outputting the modulated chosen stream to the premise network such that the second user can access the modulated chosen stream by tuning a given premise network connected television to the second carrier frequency” (Sheppard et al.: Col 6, Line 60 – Col 7, Line 3; Col 9, Lines 48-62; Col 10, Lines 10-34; Col 11, Lines 13-31).

Claim 32 is rejected wherein the method further comprises “tracking a viewing metric of the first user” (Ellis et al.: Figure 19).

Claim 33 is rejected wherein the method further comprises “disabling access to a certain video stream for at least one of the plurality of users” (Ellis et al.: Para. [0095] – Para. [0105]) in association with parental control features.

Claim 39 is rejected wherein it would have been obvious in light of the aforementioned combined teachings such that the method would further involve “authenticating that the second user is associated with the second carrier frequency” for the purpose of providing a means to prevent accidental redirects of a viewing channel by children or other adults (Reyes et al.: Para. [0005]). For example, a particular user (ex. house guest) in the multi-user household may choose to lock the operation of the

particular remote controller associated with their particular television (ex. guest room) operating on its assigned or “second carrier frequency”. Accordingly, only by authenticating that the guest or user associated with the second radio frequency band is actually operating the particular remote in their room can the television channel be changed.

Claim 41 is rejected in light of the aforementioned combination of references. The combined Sheppard et al. and Ellis et al. references disclose the existence of a particular television associated with a particular remote control, user, and assigned frequency such that the system provides a particularly assigned frequency to a television associated with a particular user. While the Ellis et al. reference suggests the particular usage of parental control settings, the combined references are silent with respect to the usage of “authentication” as claimed. In an analogous art pertaining to video distribution systems, the Reyes et al. reference discloses “authenticating that the first user” is allowed to change channels on a particular remote controller so as to “allow only the first user to request different media content” to be displayed (Para. [0037] – [0038] and [0042]). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined teachings such that the video distribution method further comprises “authenticating that the first user is associated with a first carrier frequency; and allowing only the first user to request different media content for the first carrier frequency” for the purpose of providing a means to prevent accidental redirects of a viewing channel by children or other adults (Reyes et al.: Para. [0005]). For example, a particular user (ex. parent) in the multi-user household may

choose to lock the operation of the particular remote controller associated with their particular television (ex. parent's room) operating on its assigned or "first carrier frequency". Accordingly, only by authenticating that the parent or user associated with the first radio frequency band is actually operating the particular remote in their room can the television channel be changed or other system feature accessed.

5. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sheppard et al. (US Pat No. 6,978,474), in view of Ellis et al. (US Pub No. 2005/0251827 A1), and in further view of Eames et al. (US Pat No. 6,493,875).

In consideration of claim 21, the Sheppard et al. reference is silent with respect to the "premise network" necessarily comprising a "wireless local area network". The Ellis et al. reference suggests the particular usage of a "wireless local area network" so as to interconnect the equipment (Para. [0072]). In an analogous art pertaining to the video distribution, the Eames et al. reference discloses the particular usage of a "wireless local area network" in association with a wireless gateway [200] similar to that disclosed by Sheppard et al. (Figure 4; Col 6, Lines 22-39) wherein different channels are modulated onto different wireless channels. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined references so as to employ a "wireless local area network" for the purpose of advantageously provide a means to distribute high-speed digital information within households that do not have compatible coaxial cable wiring (Eames et al.: Col 1, Lines 21-33).

6. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sheppard et al. (US Pat No. 6,978,474 B1), in view of Ellis et al. (US Pub No. 2005/0251827 A1), and in further view of Milovanovic et al. (US Pub No. 2003/0028872 A1).

In consideration of claim 35, the combined references are silent with respect to the particular usage of the “access engine employing a biometric authentication scheme”. In an analogous art pertaining to video distribution, the Milovanovic et al. reference discloses the particular usage of an “access engine” [14] that “employs a biometric authentication scheme” (Para. [0021] – [0025]). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined references such that the “access engine employs a biometric authentication scheme” for the purpose of providing a non-obtrusive manner to identify a user without requiring an active identification on behalf of the user (Milovanovic et al.: Para. [0005] and [0009]).

7. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sheppard et al. (US Pat No. 6,978,474), in view of Ellis et al. (US Pub No. 2005/0251827 A1), in view of Reyes et al. (US Pub No. 2002/0078442 A1), and in further view of Horiwitz et al. (US Pat No. 6,785,901 B1).

In consideration of claim 42, as aforementioned, the combined references suggest the particular usage of parental control, however, they are silent with respect to the step of “comparing” and “notifying” as claimed. In an analogous art pertaining to the field of video distribution systems, the Horiwitz et al. reference discloses a parental control system which “compares [a] request for media content to a block list” associated with

blocked channels/content for that television and profile (Col 9, Lines 13-27; Col 10, Line 33 – Col 11, Line 63) and further “notif[ies] the first user that the requested media content will not be displayed” by informing the user a password or other appropriate identifier must be displayed in order to access the requested channel (Col 11, Lines 40-63). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined teaches so as to “compare the request for the media content to a black list associated with a first carrier frequency” and to notify the first user that the requested media content will not be displayed” for the purpose of advantageously providing a method by which to enact flexible parental control through the usage of profile based blocking (Horiwitz et al.: Col 2, Lines 32-53). For example, taken in combination, a child could not simply sneak into a parent’s room so as to watch programming on a television associated with a different frequency to which they are not entitled to watch. Rather, the system authenticates that the appropriate viewer is watching the appropriate programming on the appropriate television.

(10) Response to Argument

In response to appellant’s arguments the examiner respectfully disagrees that the rejection should be reversed. Only those arguments raised by the appellant pursuant to particular issues and particularly addressed claimed limitations on appeal have been considered and addressed by the examiner. Any further arguments regarding other requirements associated with establishing a prima facie case of obviousness that the appellant could have made are considered as having been conceded by the appellant for

purpose of the appeal and are not being subsequently addressed by the examiner for the panel's consideration.

A. Claims 1, 2, 4, 6-10, 20, 22, 24, 26-28, 34, 36, and 40

Regarding claim 1, Appellants argue that the asserted combination s fail to disclose or suggest the particular combination of elements recited in the claims. In particular, Appellants assert that Ellis does not disclose associating a television with a particular user and therefore the combination of Sheppard nor Ellis disclose or suggest “a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information modulated to a second radio frequency band associated with a second user”. The examiner respectfully disagrees.

As set forth in the Final Rejection, Sheppard clearly discloses a “decoded first video information stream modulated to a first radio frequency band . . . and a second video information stream modulated to a second radio frequency band” (Col 6, Line 60 – Col 7, Line 3; Col 10, Lines 10-34; Col 11, Lines 13-31). As has been consistently conveyed to appellants throughout prosecution, the term ‘associated with’ is broad and has been construed to mean that something is related to or has some relationship with something else. The Examiner’s broad interpretation of the meaning of ‘associated with’ has not and continues to not be challenged. Sheppard teaches that the particular frequency bands correspond to programming being distributed to particular televisions; however, the reference is silent with respect to the particular ‘association’ of users within a household to a particular television. The examiner’s burden, in light Sheppard et al. being silent with respect to the existence of

multiple viewers within the residence was to provide evidence of 'associating a television to a particular user'.

Turning to the instant application, being 'associated with' is reasonably interpreted as a particular user watching a particular television that receives programming over a particular channel.¹ For example, if Dad watches the television in the parent's room then the television is tuned to channel 7 to receive programming, or if the child watches the television in their room then the television in their room is tuned to channel 10 to receive programming, etc. (IA: Para. [0022]). Therefore, in operation, a particular user watching a particular television is 'associated with' (or has some relationship with) a particular television. A particular television being watched is 'associated with' (or has some relationship by being tuned to in order to receive programming) to a particular frequency/channel. Therefore, in light of the specification, a particular user is reasonable construed as being 'associated with' or have some relationship to a particular 'channel' by virtue of watching a particular television.

Ellis et al. discloses that a user is operable to assign names to televisions (Para. [0092]). Irrespective of what names are selected for each television, the illustrated names are those clearly related to different users or 'associated with' different users within the household (ex. Parent, Bobbi (Children), Guest) (Figures 9 and 13). A television residing within the Parent's bedroom is a television associated with a particular user, namely a television 'associated with' the parent. The reference further provides evidence that the head of household (Parent) operates/watches the television within their bedroom (Para. [0089]) and

¹ It is arguable, however, that being 'associated with' could be also be met given that the users reside within a residence that operates to distribute video programming at a variety of frequency bands. Therefore, the users by virtue of living within a household that distributes video using different frequency bands are 'associated with' or have some relationship to those frequency bands.

that children (Bobbi) or other users can watch/operate televisions in their own respective rooms. Ellis et al. clearly provides evidence of “associating a television to a particular user” (ex. Parent’s room – Parent’s television, Children’s room – Children’s television, Guest Room – Guest television) (Para. [0075] and [0089] – [0093]).

One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). To summarize:

Claim requires:	associating users with frequencies
Sheppard teaches:	associating TV with a frequency
Sheppard fails to teach:	associating a TV with a user
Ellis teaches:	associating a TV with/to a user

Therefore, taken in combination, the references teach associating TVs with a frequency corresponding to a particular location associated with a particular user (ex. children’s TV is associated with a particular frequency and since it is their television – the children are also associated with the frequency associated with their television) – thereby meeting the claimed limitation of associating users with frequencies in view of the combined teachings.

Regarding claims 2, 4, 6-10, 34, and 36, appellants assert that since a prima facie case of obviousness was not established for claim 1 that dependent claims 2, 4, 6-10, 34, and 36 are allowable. As no further arguments are provided, the examiner respectfully asserts that the claims are not allowable for the same reasons set forth for independent claim 1.

Regarding independent claim 20, appellant argues that a prima facie case of obviousness was not established because the combination of references fails to teach “a plurality of remote control modules each configured to output a signal modulated to an assigned frequency block associated with a particular user”. As was previously argued against the non-patentability of claim 1, appellants assert that Ellis fails to teach that a plurality of users within a household are associated with a plurality of televisions as opposed to associating a television with a particular location. The examiner respectfully disagrees. As set forth in the rejection, Sheppard teaches a “plurality of remote controllable channel output modules, each configured to output a signal modulated to an assigned frequency block” for the distribution and reception of programming on that particular ‘assigned frequency block’ on a remote television with the residence. Sheppard requires that each television be assigned to a particular ‘frequency band’ in order to uniquely receive programming within the local video distribution system. Sheppard is silent with respect to ‘frequency blocks’ being ‘associated with a particular user’, though it is clear that if a television is being watched within the residence that a ‘frequency block’ is ‘associated with a particular user’ or the user watching the particular television. Ellis et al. clearly anticipates associating a plurality of televisions with a plurality of users (ex. Parent, Bobbi (Children), Guest, etc.) (Figures 9 and 13) in so far as a television residing within the Parent’s bedroom is a television associated with a particular user – namely a television ‘associated with’ the parent. For example, the reference teaches that the head of household (Parent) operates/watches the television within their bedroom (Para. [0089]) and that children (Bobbi) or other users can watch/operate televisions in their own respective rooms. While watching a particular television a particular user is

clearly ‘associated with’ or related a particular frequency by virtue of watching/operating a television tuned to that frequency. Taken in combination, the ‘plurality of remote controllable channel output modules’ are thereby ‘configured to output a signal modulated to an assigned frequency block associated with a particular user’ (ex. that frequency block associated with the Parent watching the Parent’s television or that frequency block associated with the Child’s television being watched by the Child). Accordingly, taken in combination, the references teach or suggest “a plurality of remote control modules each configured to output a signal modulated to an assigned frequency block associated with a particular user”. Ellis et al. clearly provide evidence of “associating a television to a particular user” (ex. Parent’s room – Parent’s television, Children’s room – Children’s television, Guest Room – Guest television) (Para. [0075] and [0089] – [0093]).

Regarding claims 22, 24, and 26-28, appellants assert that since a prima facie case of obviousness was not established for claim 20 dependent claims 22, 24, and 26-28 are allowable. As no further arguments are provided, the examiner respectfully asserts that the claims are not allowable because the rejection of independent claim 20 is proper.

Regarding independent claim 40, appellant generally repeats previously presented arguments that a prima facie case of obviousness was not met because the combination of references fails to teach “linking a plurality of users with associated carrier frequencies”. The examiner respectfully continues to disagree. As set forth in the rejection, Sheppard discloses the particular distribution of requested media content on different ‘carrier frequencies’ to a plurality of televisions within a household. Ellis et al. clearly anticipates associating or ‘linking’ the plurality of televisions with a plurality of users (ex. Parent, Bobbi

(Children), Guest, etc.) (Figures 9 and 13) in so far as a television residing within the Parent's bedroom is a television associated with or 'linked' to a particular user – namely a television is 'associated with' or 'linked' with the parent by residing within their room. For example, the reference teaches that the head of household (Parent) operates/watches the television within their bedroom (Para. [0089]) and that children (Bobbi) or other users can watch/operate televisions in their own respective rooms. While watching a particular television a particular user is clearly 'linked' or 'associated with' or related a particular frequency by virtue of watching/operating a television tuned to that frequency. Accordingly, taken in combination, the references teach or suggest "linking a plurality of users with associated carrier frequencies" and "modulating the media content on a carrier frequency associated with [a requesting first and second user respectively]".

B. Claims 3, 5, 37, and 38

Regarding the rejection of claims 3, 5, 37, and 38, appellant's first argument is that the claims are allowable based upon their dependency on claim 1. As previously addressed, the rejection of claim 1 is believed proper and the rejection of claims 3, 5, 37, and 38 should be sustained in light of appellant's first argument.

Appellant further argues that the Kolde fails to teach or suggest that the remote control mechanism is a wireless telephone. The examiner respectfully disagrees. As noted by the appellant, the reference teaches that the remote control is operated in the manner of a telephone and the remote controller is operable to capture/transmit an audio signal. For example, the reference teaches that the remote controller can establish a two-way (sending

and receiving) audio/visual conversation with a technical support person or a sales representative (Col 4, Lines 58-60; Col 6, Lines 3-11). The reference further teaches that the head-end [110] functions as a Central Office (CO) in the telephone industry routing communications to/from the send/receive communications reference teaches that the headend [110] functions (Col 4, Lines 9-12). Given that the remote control [106] is a wireless-device that is operated in the manner of a telephone, establishes and facilitates the sending/receiving of audio/video conversations between parties, and operates in conjunction with a telephony based Central Office, it is the examiner's position that one skilled in the art would certainly conclude that it is capable of receiving and performing functions of a wireless telephone (ex. facilitating audio communications between parties through a telephony Central Office).

C. Claim 23

Regarding the rejection of claim 23, appellant provides no further arguments over those presented for independent claim 20. APA was not relied upon for the particularly argued elements of independent claim 20. Accordingly, as no further arguments are presented over and above those already addressed, the rejection of claim 23 is still believed proper.

D. Claims 29, 31-33, 39, and 41

Regarding the rejection of claim 29, appellant notes that claim 29 recites "linking a plurality of users with associated carrier frequencies". It is unclear to the examiner if Sheppard necessarily discloses a "plurality of users" as opposed to a single "user" within the residence. As previously discussed, Ellis clearly teaches multiple users within a residence

and Sheppard in combination with Ellis teaches “linking a plurality of users with associated carrier frequencies”.

Appellants also argue that Reyes fails to disclose the claimed limitation of authenticating that the first user is associated with a first carrier frequency. The instant application discloses that ‘authentication’ involves (but is not limited to) the particular usage of a password in order to utilize the remote controller to change channels (IA: Para. [0037]). As previously noted, the combination of Sheppard and Ellis teach the particular “associating [a first user] with a first carrier frequency”. For example, the references in combination provide for a first user (ex. Parent) to watch a particular television (ex. Parent’s television) which is associated a particular frequency. Reyes teaches the particular usage of a password to authenticate that a user is ‘authorized’ to change the channel of a television. Accordingly, taken in combination with the earlier teachings of Sheppard and Ellis, Reyes reference authenticates that the “first user is associated with a first carrier frequency” so as to confirm that the ‘first user’ (ex. Parent) can change the channel on the television.

E. Claim 21

Regarding the rejection of claim 21, appellant provides no further arguments over those presented for independent claim 20. Eames was not relied upon for the particularly argued elements of independent claim 20. Accordingly, as no further arguments are presented over and above those already addressed, the rejection of claim 21 is still believed proper.

F. Claim 35

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Regarding the rejection of claim 35, appellant provides no further arguments over those presented for independent claim 1. Milovanovic was not relied upon for the particularly argued elements of independent claim 1. Accordingly, as no further arguments are presented over and above those already addressed, the rejection of claim 35 is still believed proper.

G. Claim 42

Regarding the rejection of claim 42, appellant provides no further arguments over those presented for independent claim 40. Neither Reyes nor Horiwitz was relied upon for the argued elements of independent claim 40. Accordingly, as no further arguments are presented over and above those already addressed, the rejection of claim 42 is still believed proper.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

Scott Beliveau

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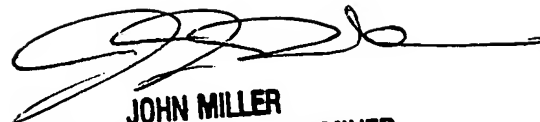
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